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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,094	12/02/2003	Yingfai Cheung	USP2136A-YC	1750

7590 10/21/2004
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EXAMINER


VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	10/725,094	CHEUNG, YINGFAI	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 15-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-14 in the reply filed on 17 August 2004 is acknowledged. The grounds for traversal were not presented in the response. Therefore, the requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, ^{2,}₃ 4, 9, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,576,665 to Delahunty.

Regarding Claim 1, Delahunty teaches a method for guiding a growing plant via a supporter, comprising the steps of: (a) providing a guiding member (Fig. 3 #30) having a length substantially long enough to bind around said growing plant (Fig. 2 #7) with said supporter (Fig. 4a #42), wherein said guiding member has a head portion defining at a head end, a tail portion defining at a tail end, and a plurality of locking teeth (Fig. 3 #40) spacedly formed along a longitudinal edge of said tail portion of said guiding member; (b) twisting said tail portion of said guiding member to substantially align with a longitudinal length of a locker slot (Fig. 3 #39 and 38) which is longitudinally formed at said head portion of said guiding member, wherein said longitudinal length of said locker slot is substantially larger than a width of said guiding member; (c) slidably

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inserting said tail portion of said guiding member through said locker slot to form a binding loop around said growing plant with said supporter, wherein said tail portion of said guiding member is slid along said locker slot to adjust a loop diameter of said binding loop corresponding to a distance between said growing plant and said supporter; and (d) twisting said tail portion of said guiding member back to its original orientation such that a holding neck portion of said corresponding locking tooth is locked at said locker slot by a transverse width thereof so as to retain said loop diameter of said binding loop to fittingly bind said growing plant with said supporter, wherein said transverse width of said locker slot is larger than a thickness of said guiding member and is larger than a width of said holding neck portion of each of said locking teeth.

Regarding Claim 2, Delahunty inherently teaches the steps of: (e) when said growing plant grows to increase a diameter thereof to a grown diameter, releasing said guiding member from said growing plant by twisting said tail portion of said guiding member to align with said longitudinal length of said locker slot to unlock said respective locking tooth with said locker slot such that said tail portion of said guiding member is allowed to slidably eject from said locker slot; slidably releasing said tail portion of said guiding member through said locker slot such that said binding loop of said guiding member is adjusted for fitting said grown diameter of said growing plant with respect to said supporter; and (g) twisting said tail portion of said guiding member back to its original orientation such that said locking neck portion of said adjacent locking tooth is locked at said locker slot so as to retain said loop diameter of said binding loop to

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fittingly re-bind said guiding member around said growing plant with said supporter (Fig. 3 and 2).

Regarding Claims 3 and 4, Delahunty teaches said locking teeth are integrally and alignedly formed along said longitudinal edge of said tail portion of said guiding member to define said holding neck portion on said guiding member at a root portion of each of said locking teeth (Fig. 3 #36 and 40).

Regarding Claim 9, Delahunty teaches said tail end of said guiding member has a tapered shape (Fig. 3 #30) having a width substantially smaller than said transverse width of said locker slot such that said tapered tail portion of said guiding member is guided to slide through said locker slot when said tail end of said guiding member is inserted therethrough.

Regarding Claim 11, Delahunty teaches each of said locking teeth has a guiding edge having an outer end formed at said longitudinal edge of said tail portion of said guiding member and an inner end inclinedly and inwardly extended on said guiding member towards said tail end thereof to define said holding neck portion on said guiding member at said inner end of said guiding edge of each of said locking teeth (Fig. 3 #40).

Regarding Claim 13, Delahunty teaches said guiding edge of each of said locking teeth is extended inclinedly at a direction corresponding to an inserting direction of said tail portion of said guiding member such that said locking teeth are allowed to slide through said locker slot at said inserting direction while said locking teeth are blocked up at said transverse width at an ejecting direction which is opposed to said inserting direction (Fig. 3 #40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8, 10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,576,665 to Delahunty in view of German Patent DE 4007784 A1 to Basener et al.

Regarding Claims 5 and 6, Delahunty is silent on said locker slot, having a triangular shaped, has a width gradually increasing towards said head end of said guiding member, wherein said longitudinal length of said locker slot is defined along an adjacent edge thereof for said tail portion of said guiding member to slidably inserting therethrough. However, Basener et al teaches an old and notoriously well-known tie configuration where the locker slot is a triangular shape (Basener Fig. 3 #3). It would have been obvious to one of ordinary skill in the art to modify the teachings of Delahunty with the teachings of Basener at the time of the invention since the modification is merely an alternate equivalent slot configuration selected as an engineering design choice for ergonomic ease of for ease of manufacturing while performing the same intended function of securing the tail end of the tie and does not present a patentably distinct limitation.

Regarding Claims 7 and 8, Delahunty as modified teaches said locker slot further has a longitudinal guiding width defining at a height of said locker slot, wherein said

longitudinal guiding width of said locker slot at least equals to said width of said guiding member (Delahunty Fig. 3).

Regarding Claim 10, Delahunty as modified teaches said tail end of said guiding member has a tapered shape having a width substantially smaller than said transverse width of said locker slot such that said tapered tail portion of said guiding member is guided to slide through said locker slot when said tail end of said guiding member is inserted therethrough (Delahunty Fig. 3).

Regarding Claim 12, Delahunty as modified teaches each of said locking teeth has a guiding edge having an outer end formed at said longitudinal edge of said tail portion of said guiding member and an inner end inclinedly and inwardly extended on said guiding member towards said tail end thereof to define said holding neck portion on said guiding member at said inner end of said guiding edge of each of said locking teeth (Delahunty Fig. 3 #36 and 40).

Regarding Claim 14, Delahunty as modified teaches said guiding edge of each of said locking teeth is extended inclinedly at a direction corresponding to an inserting direction of said tail portion of said guiding member such that said locking teeth are allowed to slide through said locker slot at said inserting direction while said locking teeth are blocked up at said transverse width at an ejecting direction which is opposed to said inserting direction (Delahunty Fig. 3 #38 and 40).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 2,361,506; U.S. Patent No. 3,494,071; U.S. Patent No. 2,961,785; U.S. Patent No. 3,365,753; United Kingdom Patent GB 2209111A; U.S. Patent No. 2,134,242; U.S. Patent No. 5,568,700; French Patent FR 2640464; U.S. Patent No. 5,581,850; U.S. Patent No. 3,438,095; U.S. Patent No. 6,192,554; U.S. Patent No. 4,466,159; U.S. Patent No. 3,913,179.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

04 October 2004

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